

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35738

STATE OF IDAHO,)	2009 Unpublished Opinion No. 553
)	
Plaintiff-Respondent,)	Filed: August 5, 2009
)	
v.)	Stephen W. Kenyon, Clerk
)	
PHILIP A. FENWICK,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. Gregory M. Culet, District Judge.

Order denying Idaho Criminal Rule 35 motion for reduction of sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Justin M. Curtis, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before LANSING, Chief Judge; PERRY, Judge;
and GRATTON, Judge

PER CURIAM

Philip A. Fenwick pled guilty to lewd conduct with a minor under the age of sixteen. Idaho Code § 18-1508. The district court sentenced Fenwick to a unified sentence of fifteen years with seven years determinate. Fenwick filed an Idaho Criminal Rule 35 motion, which the district court denied. Fenwick appeals asserting that the district court abused its discretion by denying his Rule 35 motion.

A motion for reduction of sentence under I.C.R. 35 is essentially a plea for leniency, addressed to the sound discretion of the court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of

new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). Upon review of the record, including the new information submitted with Fenwick's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Fenwick's Rule 35 motion is affirmed.